

Members

Rep. Craig Fry, Chairperson
Rep. Michael Smith
Sen. Allen Paul
Sen. Timothy Lanane
Paul Chase
Lee Lange



INTERIM STUDY COMMITTEE ON THE INDIANA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION

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MEETING MINUTES¹

Meeting Date: September 20, 2000
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Craig Fry, Chairperson; Rep. Michael Smith; Sen. Timothy Lanane; Paul Chase; Lee Lange.

Members Absent: Sen. Allen Paul.

The meeting was called to order by Representative Craig Fry, Chairperson, at 1:05 PM. Representative Fry asked the members and staff to introduce themselves.

Presentation of Online Services and Survey Results by Outsourced Administrative Systems, Inc. (OASYS)

Scott Mingee, Vice-President/CIO, OASYS, began with a slide presentation regarding the ICHIA web site². He discussed users, functions, surveys of members evaluating the web site, and future development of the web site.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

²See Exhibit 1.

Matt Weisgerber, Manager of E-Business and Decision Support, OASYS, presented an online demonstration. He explained that the web site is available to members and guests. He presented the members' home page and discussed the three main areas of access for members: (1) claims and authorizations; (2) customer service; and (3) benefit information. Mr. Weisgerber demonstrated a fictional member's claims history with specific claims information and explanation of benefits applied to the member's deductible. He presented the customer service information which allows a member to contact customer service if the member cannot access needed information from the claims and authorizations page. Mr. Weisgerber demonstrated that the member may present a question by way of clicking on one of a list of choices, or by typing the question. He then showed the member's plan information, deductibles, covered benefits, etc. available on the benefit information page. Mr. Weisgerber explained that premium rate data is available, and downloading of forms can be done from the web site.

In response to questions from Rep. Smith, Mr. Weisgerber stated that: (1) authorization by providers for health care services over the web site is in beta testing; and (2) security measures within the software prevent individuals from accessing certain information, such as specific claims information, unless the individual has clearance. In response to a question from Ms. Lange, Mr. Weisgerber stated that 30% of the web site users are ICHIA members, and 70% of the users are guests.

Jim Bucher, Director of Finance/Corporate Controller, OASYS, presented a handout³ reflecting the results of a survey of member carriers regarding ICHIA assessments. The results reflect that the amount of assessment paid that was taken as a tax credit in 1998 by the companies responding was 62%. The handout also reflected a significant increase in ICHIA membership since 1997. Mr. Bucher stated that the costs of the ICHIA program are borne increasingly by insurance companies because the companies are not making enough money to take the full tax credit allowed under the ICHIA statute. The survey results reflect that 16.9 million dollars in tax credits were carried forward in 1999. Mr. Bucher stated that the majority of the costs are borne by six carriers.

In response to comments by Mr. Chase, Mr. Bucher stated that the survey results are self reported and have not been thoroughly audited for accuracy. Rep. Smith asked about marketing efforts and was informed that the web site may be accessed from the Indiana Department of Insurance web site, as well as other sites, and that it is scheduled to be provided to the provider community in the next 30 days.

In response to a question from Sen. Lanane, Mr. Bucher stated that ICHIA membership has increased from 4,900 to 5,700 members in the past few months. He added that 600 individuals with HIV/AIDS have become members in 2000 due to premium payments made with federal monies appropriated to the Indiana State Department of Health. The resulting increased number of sicker members and their need for services exacerbates the problem of losses to the ICHIA program. Mr. Bucher stated that the projected loss for ICHIA in 2000 is \$35 - 40 million.

In response to questions from Rep. Fry, Rep. Smith, and Sen. Lanane, Mr. Bucher stated that the new members with HIV/AIDS are not being transferred from Medicaid. Rather, they are people who do not meet the eligibility requirements for Medicaid and do not have the resources to pay for an ICHIA policy without assistance.

³See Exhibit 2.

Options for Changing the ICHIA Funding Mechanism

Sally McCarty, Commissioner, Indiana Department of Insurance, stated that the ICHIA Board of Directors has looked at the possibility of assessing third party administrators (TPAs), and at other states' funding mechanisms. She stated that, due to the federal Employee Retirement Income Security Act (ERISA) implications of assessing TPAs, Dan Seitz, Bose McKinney and Evans, was consulted.

Mr. Seitz presented a handout⁴ addressing the feasibility of assessments against TPAs. Mr. Seitz stated that such an assessment would likely be struck down by courts under the ERISA preemption clause. He stated that since TPAs don't control premiums, the presumption is that premiums are of the insurer, not the TPA. Mr. Seitz predicted that the result of assessing TPAs would be to essentially assess the same money twice, at the insurer level and at the TPA level. He stated that the response of TPAs would likely be to increase administrative costs with resulting premium increases.

In response to a question from Sen. Lanane, Mr. Seitz stated that self funded government plans are exempt from ERISA and are the only self funded plans that could be assessed. In response to comments by Mr. Chase, Mr. Seitz stated that Indiana law requires TPAs to register in Indiana if the TPA is representing an insurance company, and that IC 27-1-25, regulating TPAs, does not require reporting of ERISA premiums by TPAs.

Alex Slabosky, CEO, M-Plan, and also representing the Indiana Association of Health Plans⁵, presented a handout containing two graphs⁶. Mr. Slabosky gave a brief history of ICHIA explaining that in 1982, when ICHIA was implemented, 2/3 of the costs were paid out of premiums with 1/3 of the costs paid out of assessments. He stated that in 1990 the ratio was 50/50. It is estimated that approximately 60% of the insurance market in Indiana is self funded, including most large employer groups in the state, leaving 40% of the market to absorb the costs of ICHIA. Mr. Slabosky related that approximately 50% of the HMOs in Indiana are losing money and the ICHIA assessments are increasing, putting a strain on the HMOs. He stated that in the past 10 years, M-Plan's assessments have cost \$8 million, which is significantly higher than M-Plan's profits in that period. Mr. Slabosky suggested that public funding to support the costs of ICHIA which are not covered by premiums is the best way to resolve the funding problem.

In response to a question from Rep. Smith, Mr. Slabosky stated that the \$8 million paid in assessments is figured into M-Plan's rate base. In response to a question from Mr. Chase, Mr. Slabosky clarified his belief that ICHIA is a public program and should be funded by public monies.

Jim Brunnemer, Arnett HMO, and also representing the Indiana Association of Health Plans, presented a handout concerning ICHIA funding options⁷. Mr. Brunnemer stated that the primary concerns are: (1) the growth in the assessment; (2) the lack of broad based funding; and (3) a potential increase in the number of uninsured individuals that will result if

⁴See Exhibit 3.

⁵A copy of Mr. Slabosky's testimony may be found in Exhibit 4.

⁶See Exhibit 5.

⁷See Exhibit 6.

the first two concerns impact small employers. Mr. Brunnemer suggested options to resolve the problem of funding ICHIA. He suggested the following: (1) a hospital admission surcharge; (2) a maximum assessment with the remainder absorbed through state monies, providing carriers with more predictability; and (3) a system of tax credits that would allow a full refund of assessments to carriers.

In response to a question from Sen. Lanane, Mr. Brunnemer stated that an admission surcharge would be reflected as a fee on a hospital bill, would be collected by the hospital and forwarded to the state. In response to a question from Mr. Chase, Mr. Brunnemer stated that if there were a maximum assessment, the tax credit should remain in place. In response to a question from Rep. Fry, Mr. Brunnemer stated that if nothing is done to change the manner in which ICHIA is currently funded, the ongoing viability of carriers is questionable due to increasing ICHIA enrollment, the addition of a much sicker population, and decreased profits of carriers.

Bruce Greenberg, President, Partner's Health Plan, and also representing the Indiana Association of Health Plans, presented a handout⁸ reflecting Partner's assessments and net income. Mr. Greenberg stated that, based on projections for 2000, Partner's is in danger of insolvency with the increased assessments and decreased company profits. Mr. Greenberg stated that he supports the previously mentioned options for resolving the ICHIA funding problem.

In response to a question from Rep. Fry, Mr. Greenberg stated that Partner's does make a profit after the assessment, but as noted on the handouts provided, it is extremely small.

John Gerni, Association of Indiana Life Insurance Companies, discussed the idea of assessing reinsurers who write health insurance coverage. Mr. Gerni stated that the same problems that are being encountered by member carriers would be encountered by reinsurers if they were assessed. Mr. Gerni stated that there are fewer reinsurers to absorb the cost of the assessments, and that assessing reinsurers would increase premiums for the health plans purchasing reinsurance. This would essentially result in a "double assessment".

In response to a question from Mr. Chase, Mr. Gerni stated that he would provide data regarding companies that are providing reinsurance for health plans.

David Bodle, Henderson Daily Withrow and DeVoe, representing M-Plan, presented a handout regarding assessments of TPAs⁹. Mr. Bodle stated that recent U.S. Supreme Court cases reflect a broadening view on preemption under ERISA, suggesting that it is possible to assess TPAs.

In response to a question from Sen. Lanane, Mr. Bodle stated that the recent court decisions suggest that ERISA preemption of a statute providing for assessment of TPAs depends on whether the statute interferes with the relationship between the patient and the provider.

Tim Kennedy, Indiana Hospital and Health Association, suggested that in light of the problems that current carriers have in paying the assessments, TPAs would probably have just as much difficulty because TPAs are not in any better financial situation than carriers.

⁸See Exhibit 7.

⁹See Exhibit 8.

Mr. Kennedy expressed opposition to provider and hospital taxes and stated that he is interested in participating in any attempt to resolve the ICHIA funding problem.

Penalty for Late Payment of Assessments

Sally McCarty, Commissioner, Indiana Department of Insurance, presented a handout¹⁰ regarding the authority of the Commissioner to fine or discipline companies for delinquent assessments. Ms. McCarty stated that the handout provides model language to provide the Commissioner with authority to penalize carriers who are delinquent in paying assessments.

In response to questions from Rep. Smith, Ms. McCarty stated that assessments are made twice per year. Mr. Bucher stated that he does not remember a carrier expressing an inability to pay the assessment. Ms. McCarty stated that she believes there is a distinct possibility that some carriers may be unable to pay their assessments in the near future. In response to a question from Ms. Lange, Ms. McCarty and Mr. Bucher explained that there is a 30 day period between the first and second notices of assessment, and that the Commissioner currently has no authority to penalize carriers for late payment.

Rep. Fry asked whether anything could be done quickly to assist carriers in planning for assessments without legislative action. Mr. Bucher stated that projecting assessment costs is difficult due to the unpredictability of claims. Mr. Chase stated that the ICHIA Board of Directors is currently attempting to determine what can be done without legislative action to ease the burden on carriers. Ms. Lange affirmed the difficulty in projecting costs, stating that even if the budget is increased by a certain amount, if the losses to the ICHIA program are greater than the increase, the premium rates have already been set for the next year and cannot be changed. Rep. Fry expressed his support for any currently available action taken by the ICHIA Board of Directors to resolve the funding problem.

Mr. Seitz recommended that if language is drafted to allow the Commissioner to impose a penalty for late payment, there should also be language providing for waiving assessments if the assessment would cause insolvency of a carrier.

Prescription Drug Benefits

James Carr, ICHIA Policyholder, discussed the recent effort to contain prescription drug costs under ICHIA. Mr. Carr gave an example of his own expenses, stating that the cost containment measures prohibit pharmacists from charging ICHIA more than the cost of the drugs. This results in patients being billed for the remainder of the charges resulting in significant out of pocket drug expenses for ICHIA policyholders. Mr. Carr recommended hiring a pharmacy benefit manager.

Mr. Chase stated that a request for proposals has been made for a prescription benefit plan under ICHIA. He explained that the hope is that a prescription benefit plan will begin by January 1, 2001. Ms. Lange stated that the size of the ICHIA pool doesn't lend itself to aggressive price negotiation, but that this is being explored as part of the request for proposals process.

Rep. Fry mentioned creating a larger negotiating pool by including ICHIA policyholders with

¹⁰See Exhibit 9.

the state employee insurance plans. He expressed concern for individuals covered under ICHIA who, if unable to pay for and obtain prescription drugs that are necessary for their survival, will die. Rep. Fry stated that, since this is a funding issue, the legislative leaders in the finance area should be made aware of the magnitude of the ICHIA funding problem and the issues and concerns surrounding it. Rep. Smith indicated that the state indirectly experiences the funding problems through the use of tax credits. Mr. Chase expressed his belief that benefits under the ICHIA plans should not be reduced as a cost-saving mechanism. Rep. Fry led a general discussion regarding options for resolving the funding issue.

Mr. Carr expressed concern that if the state were to completely fund the program, it might have a result as in Florida where the high-risk pool is funded by the state, but the pool is limited and filled through a lottery process.

Donna Olsen, parent of ICHIA policyholders, stated that her daughter's ICHIA premiums doubled on her 19th birthday. She stated that she pays \$7,000 per year out of pocket for premiums, copayments, and deductibles for her two children. She suggested the need for data concerning why ICHIA policyholders are on ICHIA.

Ms. McCarty expressed the need to dilute the ICHIA population with healthier policyholders. She stated that the uninsured in Indiana are not necessarily ill, but the uninsurable are ill, which is why they cannot obtain insurance. She discussed the possibility of subsidizing premiums for families of ICHIA policyholders (similar to proposals that have been made regarding subsidizing premiums for coverage of families of children covered under the Children's Health Insurance Program (CHIP)) which would result in the addition of healthier policyholders. There was general discussion regarding the eligibility requirements of CHIP, the limited benefit package for those who are within 150% to 200% of the federal poverty level, and the ability of individuals in ICHIA to pay the premiums.

Mr. Kennedy mentioned the possibility of federal matching funds if the ICHIA program were converted to a Medicaid-like program. Rep. Fry mentioned the income eligibility limits for Medicaid. There was general discussion regarding medically needy individuals and eligibility constraints, and federal monies used to purchase ICHIA policies for individuals with certain diagnoses including hemophilia, kidney transplant patients, and AIDS. Marilyn Cage, Indiana State Department of Health, stated that she could provide the specific source of federal funding that is being used to purchase these policies.

Pat Reed, consultant, Indiana State Department of Health, discussed some federal sources of money used by the Department of Health to purchase the ICHIA policies.

Rep. Fry led a general discussion regarding further work by the Committee. The legislative members present voiced agreement that the options for changing the funding mechanism are few and seem to lead to the need for public funding. They agreed that the legislative leaders in the finance area should be informed of the situation with ICHIA and asked to participate in resolving the funding difficulties. There was discussion regarding how to demonstrate the ICHIA funding problem. Rep. Fry asked Mr. Chase, Ms. Lange, and staff to assist the Committee by developing a summary of the issues that have been discussed. The summary could be included in the final report of the Committee and could be used to present the issues to the legislative finance leaders. The Committee approved this approach by voice vote.

Rep. Fry scheduled the next meeting for October 26, 2000, at 1:30 PM. The meeting was adjourned at 3:30 PM.